IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 27132 of 2004(E)

PETITIONER:

R.RADHAKRISHNAN, EDANAYUDEVAKKETHIL
THATTHAMUNNA MURI, NOORAND VILLAGE,
MAVELIKKARA.

BY ADV. SRI.K.SASIKUMAR
SRI.JAISON GEORGE (VELLANKAL)

RESPONDENTS:
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1. DEPUTY TAHSILDAR, (REVENUE RECOVERY)
TALUK OFFICE, MAVELIKKARA.

2. VILLAGE OFFICER, NOORANAD VILLAGE,
NOORANAD P.O.

3. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
HARIPPAD P.O. ALAPPUZHA.

4. THE JOINT REGIONAL TRANSPORT OFFICER,
MAVELIKKARA.

5. REGIONAL TRANSPORT OFFICER,
PATHANAMTHITTA.

R1,R2 & R4 & R5 BY G.P. SMT. SMITHA
R3 BY ADV. SRI.K.HARILAL, SC,KMTWF BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE DEMAND SNOTICE IN FORM I DATED 12.8.2004 ISSUED BY THE FIRST RESPONDENT.

EXT.P2 TRUE COPY OF THE DEMAND NOTICE IN FORM 10 DATED 12.8.2004 ISSUED BY THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF THE REPRESENTATION DATED 7.9.2004 SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 27132 OF 2004

Dated this the 16th day of November, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of arrears of Motor Transport Workers Welfare Fund contribution demanded for the year 2003-04. Petitioner's case is that petitioner is only an employee in the vehicle and his contention is that one Babu Daniel is the owner. However, standing counsel submitted that inspection of the vehicle during operation was carried on on 25.10.2002 and employees gave statement that petitioner was operating owner of the bus. Moreover, earlier operating owner of the same vehicle Rajan Varghese produced sale deed towards proof of sale of vehicle to the petitioner. In any case, final determination order for 2002-03 even though served on the petitioner on 25.8.2003 was not contested by the petitioner in appeal. It is not known whether petitioner has made contribution during the period 2002-03 when petitioner was operating owner of the vehicle. It was for the petitioner to prove as to who was employer to establish that he was also an

employee as claimed by him. In the absence of any such proof, and since registered owner of the vehicle is not made a party in this W.P., and since the previous owner sold the vehicle in favour of the petitioner, I find the contention raised by the petitioner is without any bona fide. W.P. is therefore dismissed.

(C.N. RAMACHANDRAN NAIR)
Judge